

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
) No. 13-10048-FDS  
vs. )  
)  
KING BELIN, )  
Defendant. )

BEFORE: THE HONORABLE F. DENNIS SAYLOR, IV

STATUS CONFERENCE

John Joseph Moakley United States Courthouse  
Courtroom No. 2  
One Courthouse Way  
Boston, MA 02210

September 18, 2014  
9:47 a.m.

Valerie A. O'Hara  
Official Court Reporter  
John Joseph Moakley United States Courthouse  
One Courthouse Way, Room 3204  
Boston, MA 02210  
E-mail: vaohara@gmail.com

1 APPEARANCES:

2 For The United States:

3 United States Attorney's Office, by JOHN A. WORTMANN, JR.,  
4 ESQ., 1 Courthouse Way, Suite 9200, Boston, Massachusetts  
02110;

5 VIA TELEPHONE:

6 For the Defendant:

7 PAUL J. GARRITY, ESQ., 14 Londonderry Road,  
8 Londonderry, New Hampshire 03053.

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 PROCEEDINGS

2 THE CLERK: The case before the Court is 13-cr-10048,  
3 United States of America vs. King Belin.

4 THE COURT: Would counsel please identify themselves  
5 for the record.

6 MR. WORTMANN: John Wortmann for the government, your  
7 Honor, good morning.

8 THE COURT: Good morning.

9 MR. GARRITY: Good morning, your Honor, Paul Garrity  
10:06AM 10 for Mr. Belin.

11 THE COURT: Mr. Garrity, your sound isn't quite as  
12 clear as it could be. Are you on a speaker phone?

13 MR. GARRITY: I'm on a cell phone. I just left the  
14 courtroom.

15 THE COURT: Okay. Just take care to speak clearly and  
16 carefully. All right. I called this conference on short  
17 notice. At the end of last week, I received the evaluation  
18 report for the defendant.

19 The cover e-mail from the people at FMC Devens  
10:07AM 20 indicated that the report contained material from sealed  
21 testimony that the AUSA was not permitted to hear, and so it  
22 was distributed to me, not counsel. I read the report, I  
23 circulated it to Mr. Garrity on behalf of the defendant and  
24 asked him to weigh in as to how I should proceed, whether we  
25 should produce a redacted report or produce the full report

1 under seal to the government.

2 I think Mr. Garrity reported back that he wanted to  
3 confer with his client, and I'm looking for an update and some  
4 guidance as to how at least the defense counsel thinks I ought  
5 to proceed. Mr. Garrity.

6 MR. GARRITY: Judge, I have not yet had a chance to  
7 meet with Mr. Belin, but I guess I'd like to meet with him  
8 before I disclose anything to the government.

9 THE COURT: All right.

10:08AM 10 MR. GARRITY: And I say that just based on the history  
11 of the case, as I understand it, before I got involved.

12 THE COURT: All right. The conclusion, I think,  
13 obviously does not need to be kept from the government, which  
14 is that --

15 MR. GARRITY: Oh, right, exactly.

16 THE COURT: And I'm quoting now, "In conclusion,  
17 Mr. Belin does not exhibit substantial deficits due to a  
18 substantial mental illness or defect that would significantly  
19 compromise his understanding and appreciation of the trial  
10:08AM 20 process. Similarly, Mr. Belin did not exhibit substantial  
21 impairment in his ability to participate meaningfully in our  
22 discussion of his legal proceedings, which suggest that he has  
23 the capacity to participate rationally with his attorney in the  
24 preparation and implementation of his defense." That's the  
25 last sentence of the report on page 26 signed by

1 Chad Tillbrook, forensic psychologist, FMC Devens.

2 Obviously, if he had found a mental impairment, the  
3 urgency of getting it to the government would be greater  
4 because the government might want to either dispute or to take  
5 some other action, but since he's concluded that he's capable  
6 of participating in his defense and standing trial, I would  
7 like -- we need an answer whether the government can see this  
8 report and what to do with it, but it seems to me that what I  
9 ought to do, unless someone has a different idea, is get this  
10:09AM 10 case back on a trial track.

11 MR. GARRITY: Your Honor, I think most of it could be  
12 disclosed to the government. I just want to be on the safe  
13 side and confer with Mr. Belin.

14 THE COURT: I understand. Mr. Wortmann.

15 MR. WORTMANN: And, your Honor, I didn't know how to  
16 prepare for coming down today, but I would simply point out  
17 that at least from one of my DOJ secondary requirements, it  
18 indicates that Title 18, United States Code, Section 4241  
19 contained mandatory language requiring the Court to hold a  
10:10AM 20 hearing if it has determined that there's enough doubt  
21 regarding the defendant's competency that it ordered a  
22 competency examination. The statute uses the word "shall" in  
23 reference to holding a hearing on a motion to determine  
24 competency.

25 THE COURT: So I should set it for a hearing then to

1 make a final determination.

2 MR. WORTMANN: Clearly, if we're going to have that  
3 hearing, then I believe I should be provided with not just the  
4 report from Dr. Tillbrook but also any information that was  
5 provided to the Court earlier with respect to the other  
6 psychiatrists.

7 Now, you know, it could be that the hearing is nothing  
8 more than the defendant standing up and saying that they agree  
9 with the conclusions, that they're not pressing for the  
10:10AM 10 competency hearing, to hear testimony from Dr. Tillbrook to the  
11 extent that you have any additional questions that you want to  
12 ask, but I do think that having gone the step of ordering the  
13 examination, I think the statute, and I'll go back and read the  
14 statute, but I thought I should at least tell you what my  
15 preliminary views were.

16 THE COURT: Yes.

17 MR. WORTMANN: That we have to have some kind of  
18 hearing. I think there's a lot of discretion that you have as  
19 to what the scope and the content of the hearing is, but at a  
10:11AM 20 minimum, your Honor, I think I'm entitled to see  
21 Dr. Tillbrook's report and the earlier transcript since that  
22 bears directly on what brought us here in the first place.

23 I think the other thing that we should do, and  
24 Dr. Tillbrook should be asked to provide to the Court a copy of  
25 Mr. Belin's DYS records since those could also be relevant, and

1 as you'll recall, when I requested the order, the order was  
2 that those documents simply went out to Dr. Tillbrook in the  
3 first instance.

4 THE COURT: Right. The report references DYS records,  
5 so I assume he had them.

6 MR. WORTMANN: I think he should be requested to  
7 provide those to the Court so at least your Honor could make a  
8 determination as to whether or not it's appropriate to  
9 disseminate those to the parties.

10:12AM 10 THE COURT: I express no opinion at this point about  
11 to what extent any of this should be shown to the government.  
12 Mr. Wortmann may well be correct, I simply want to proceed  
13 cautiously.

14 MR. WORTMANN: I understand.

15 THE COURT: And I want the defense to have an  
16 opportunity to weigh in here, so why don't we do this. Why  
17 don't I set a hearing date for the hearing under 4241(b), and  
18 we can work backwards from there. I would suggest maybe the  
19 week of October 6th, which is a couple weeks away.

10:12AM 20 MR. WORTMANN: Your Honor, I think that's a little bit  
21 close.

22 THE COURT: Okay.

23 MR. WORTMANN: Again, not having seen the report yet,  
24 not having decided that -- maybe if I can make a suggestion on  
25 it, your Honor, that we reconvene on October 6th, by which time

1 hopefully I will have gotten the report, and we can hear from  
2 Mr. Garrity what his wishes are and how he wishes to proceed  
3 and your Honor can tell us how you think we need to proceed so  
4 that I can get a sense of what you anticipate out of the  
5 hearing because if the, you know, the preparation for the  
6 hearing might range from, you know, a careful study of the  
7 report and the DYS records to putting together a large number  
8 of excerpts from the jail tapes, which I provided to  
9 Dr. Tillbrook, and all that is timely, and it doesn't sound  
10:13AM 10 like this would be necessary here given what you read of  
11 getting an independent examination, which I don't think is  
12 necessary, but, again, I'd want to read it.

13 THE COURT: Why don't we do this instead. I have in  
14 the calendar that we were supposed to convene on Wednesday,  
15 October 1st at 3:00. Why don't I make that a status  
16 conference. Why don't I direct both the defense and the  
17 government if they want to file anything in terms of this  
18 report or how the hearing ought to proceed or whatever by  
19 September 26th, which is a week from tomorrow, if any, legal  
10:14AM 20 analysis would move the ball forward, and then let's see where  
21 we are on October 1st.

22 MR. GARRITY: Your Honor, the only issue I have with  
23 October 1st is I just found out yesterday that I'm scheduled to  
24 pick a jury on September 29th and start a jury trial on  
25 September 30th.



1 THE COURT: Okay.

2 MR. GARRITY: That trial may end at the end of the  
3 30th, but it may carry over onto the 1st.

4 THE COURT: How about we move it to October 2nd then  
5 at 10 a.m.? That would simply be a status. I want to take it  
6 a step at a time. The first question is disclosure of the  
7 report, and I guess intertwined with that is the defense view  
8 of what I do next, what kind of a hearing I need to have.

9 MR. WORTMANN: Your Honor, I'd much rather sort of  
10:15AM 10 know what the defense thinks before I provide you with anything  
11 because we may be in agreement, and it may save you getting a  
12 lot of paper and saving you a lot of work.

13 THE COURT: Well, all right. Then first off, does  
14 October 2nd at 10:00 work for both counsel?

15 MR. WORTMANN: It does, your Honor, thank you.

16 MR. GARRITY: It does your Honor.

17 THE COURT: All right. Why don't I leave it this way.  
18 Why don't I'll give the defense a September 26th deadline for  
19 reporting to the Court as to how I should proceed in terms of  
10:15AM 20 disclosing the report to the government.

21 MR. WORTMANN: And if I can just suggest, and it's  
22 proposed -- its ideas regarding what, if any, kind of  
23 competency hearing should be held since he's had the report for  
24 awhile.

25 THE COURT: All right.

1 MR. GARRITY: Okay.

2 THE COURT: Let's do that as well. And then if the  
3 government wants to respond in writing to that, if you could  
4 get something on file by say mid-day October 1st, otherwise I  
5 can just see you on October 2nd.

6 MR. WORTMANN: Sure. Obviously, part of that will  
7 depend when I get the report.

8 THE COURT: Right. You may not have the report at  
9 that point, we may need to litigate that issue, I don't know.

10:16AM 10 Again, I'm trying to feel my way forward a step at a time.  
11 September 26th is the timeline for the defense to indicate  
12 their view on circulation of the report to the government  
13 either circulated in its entirety under seal, redacting part of  
14 it, providing none of it and defense's at least preliminary  
15 view, I don't know if I can ask you to do more than that on  
16 what kind of hearing we ought to have in light of the report  
17 under 4241(b).

18 MR. GARRITY: Okay.

19 THE COURT: Then if the Government wants to respond in  
10:17AM 20 writing to your proposal, I guess I need that early afternoon  
21 on October 1st.

22 MR. WORTMANN: That's fine.

23 THE COURT: 10:00 on October 2nd to talk where we  
24 should go from there, and it could go in many different  
25 directions, obviously, but I do want to move with some

1 expedition here given the timing of all of this.

2 MR. WORTMANN: Your Honor, if we were going to set a  
3 trial date because Mr. Garrity has just gotten the case, maybe  
4 to be on the safe side we should ask Mr. Garrity what would be  
5 a good time for a trial date so we could at least get it on  
6 your calendar.

7 THE COURT: The only wrinkle there is the -- I'm  
8 meeting with counsel tomorrow in United States vs. Gorski,  
9 which was supposed to start September 29th. I already put it  
10:18AM 10 off until October 6th, and it's going to slide possibly into  
11 December, so my schedule is a little up in the air, but putting  
12 that aside, I would have time in November or December to try, I  
13 think this is a three- or four-day trial.

14 MR. WORTMANN: Yes, three- or four-day trial.

15 MR. GARRITY: I know Mr. King is somewhat anxious to  
16 get it resolved, but I think I would need time to get up to  
17 speed on it. Would early December work for the Court?

18 THE COURT: It should work. Why don't I do this,  
19 rather than make that decision now, as I indicated, I'm going  
10:18AM 20 to see counsel in the Gorski case. I want to try to leave as  
21 much of December open in case I need to move that trial to  
22 December, so why don't we hold off on that, and we'll come up  
23 with a date that works, and I certainly understand everyone's  
24 desire, including my own, to have this resolved one way or the  
25 other.

1 MR. GARRITY: Okay.

2 THE COURT: Does all that work as a game plan?

3 MR. GARRITY: I think it does, Judge, yes.

4 THE COURT: Okay. Where are we on the exclusion of  
5 time?

6 MR. WORTMANN: I know your Honor issued the order at  
7 the last time through today, so I guess it would be today  
8 through October 2nd at 10 a.m.

9 THE COURT: All right. I would exclude the time. Is  
10:19AM 10 there any objection to that, Mr. Garrity, before I go any  
11 further?

12 MR. GARRITY: No, your Honor. I think based on my  
13 last conversation with Mr. King, he was in agreement excluding  
14 the time until this issue was resolved.

15 THE COURT: I will exclude the time from today to  
16 October 2nd in the interests of justice both to address  
17 whatever mental health issues we may have, including what kind  
18 of a hearing to hold and whether the report should be disclosed  
19 to the government, and also to permit Mr. Garrity pretrial  
10:20AM 20 preparation in the event we do go to trial. We may also be  
21 under the prong of the statute concerning mental health  
22 evaluation, so I will exclude the time on that basis as well.

23 I find that the ends of justice served by taking that  
24 action outweigh the interests of the parties and the public in  
25 a speedy trial, and I'll enter a written order to that effect.

